



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/864,967      | 05/24/2001  | Shawn P. Fojtik      | 4623US              | 3455             |

24247 7590 08/26/2003

TRASK BRITT  
P.O. BOX 2550  
SALT LAKE CITY, UT 84110

EXAMINER

LAM, ANN Y

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1641

DATE MAILED: 08/26/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/864,967

**Applicant(s)**

FOJTIK, SHAWN P.

**Examiner**

Ann Y. Lam

**Art Unit**

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-14 and 17-27 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-6, 9-14 and 17-24 and 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Anwar et al., 6,030,368.

As to claims 1, 9, 10, 11 and 21, Anwar et al. discloses a syringe barrel (80), a plunger (82); and a handle including a first member (60) configured to be held by a first part of a user's hand, said first member being pivotally connected to said syringe barrel, see Figure 1, and column 7, lines 28-31; and a second member (70) configured to be held by a second part of a user's hand, said second member being pivotally connected to said plunger, see Figure 1, and column 6, lines 51-54, said first and second members being connected one another in pivotal relation, see Figure 1, and column 5, lines 12-14.

As to claims 2, 17 and 18 said first member is pivotally connected to said syringe barrel by way of a barrel retaining member (66, 74) for releasably retaining said syringe barrel.

As to claims 3, 19 and 20, a plunger retaining member is disclosed at (74).

As to claim 4, first and second members are secured by a hinge (63).

As to claims 5, 6, 12, 13 and 14, at least one of said first and second members comprise a slot (see near 63) through which said hinge extends, said slot comprises an arcuate slot.

As to claim 21, the injection device is used to inject fluid,.

As to claim 22, the method includes pivoting said first handle and said second handle away from one another to create a negative pressure within said receptacle, see column 7, lines 46-49.

As to claim 23, said negative pressure draws a fluid into said receptacle, see column 7, lines 46-49.

As to claim 24, the fluid comprises a medicine, see column 7, line 48.

As to claim 27, the fluid comprises an indicator solution, see column 5, line 55.

**2.** Claims 1-6, 9-14 and 17-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lane, 5,733,258.

As to claims 1, 9, 10, 11 and 21, Lane discloses a syringe barrel (26), a plunger (36); and a handle including a first member (10 and 8) configured to be held by a first part of a user's hand, said first member being pivotally connected to said syringe barrel (see Figures 1 and 7); and a second member (12) configured to be held by a second part of a user's hand, said second member being pivotally connected to said plunger, see column 9, lines 9-12, said first and second members being connected one another in pivotal relation, see column 9, lines 5-8.

As to claims 2, 17 and 18 said first member is pivotally connected to said syringe barrel by way of a barrel retaining member for releasably retaining said syringe barrel, see column 8, lines 58-61.

As to claims 3, 19 and 20, a plunger retaining member is disclosed at (22).

As to claim 4, first and second members are secured by a hinge (20).

As to claims 5, 6, 12, 13 and 14, at least one of said first and second members comprise a slot through which said hinge extends, said slot comprises an arcuate slot (see at 20).

As to claim 21, the injection device is used to inject fluid, see column 2, lines 57-60.

3. Claims 1-6, 9-14 17-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by von der Decken, 5,336,201.

As to claims 1, 9, 10, 11, 21, von der Decken discloses a syringe barrel (16), a plunger (12); and a handle including a first member (40) configured to be held by a first part of a user's hand, said first member being pivotally connected to said syringe barrel, see Figure 8; and a second member (86) capable of being held by a second part of a user's hand, said second member being pivotally connected to said plunger, see Figure 8, said first and second members being connected one another in pivotal relation, see Figure 8.

As to claims 2, 17 and 18 said first member is pivotally connected to said syringe barrel by way of a barrel retaining member (46) for releasably retaining said syringe barrel, see column 8, lines 58-61.

As to claims 3, 19 and 20, a plunger retaining member is disclosed at (96, 100).

As to claim 4, first and second members are secured by a hinge (78).

As to claims 5, 6, 12, 13, 14, at least one of said first and second members comprise a slot through which said hinge extends, said slot comprises an arcuate slot (see at 78).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anwar et al., 6,030,368, in view of Pope, Jr. et al., 4,715,378.

Anwar et al. disclose the invention substantially as claimed, see above. However, Anwar et al. does not disclose that the fluid comprises gas, nor that the coupling comprises coupling an angioplasty catheter that communicates with an angioplasty balloon to the syringe barrel.

Pope, Jr. et al., discloses that it is well known in the art to use a syringe to inflate an angioplasty balloon with gas, see column 1, lines 10-12, and lines 65-66, and column

4, lines 18-20. Thus, it would have been obvious to use the Anwar et al. syringe to inflate an angioplasty balloon with gas, as taught by Anwar et al. as a well known means to inflate an angioplasty balloon.

### ***Allowable Subject Matter***

5. Claims 7, 8, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the combination of elements including a syringe handle having a first member being pivotally connected to the syringe barrel, and a second member being pivotally connected to the plunger, and said first and second members being connected to one another in pivotal relation through a slot and hinge, wherein slot and hinge include cooperating teeth, were not found in the prior art search.

### ***Response to Arguments***

Applicant's arguments with respect to the above rejected claims have been considered but are moot in view of the new ground(s) of rejection. The prior art stated above discloses a syringe handle having a first member that is pivotally connected to a syringe barrel, and a second member that is pivotally connected to a plunger, wherein the first member and second member are pivotally connected to each other.

Art Unit: 1641

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on M-Sat 11-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (703)305-3399. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-4242 for regular communications and (703)308-4426 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

A.L.

August 18, 2003

  
LONG V. LE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

08/22/03